



Edward D. Greim
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

September 25, 2020

VIA ECF

Hon. Lewis J. Liman
Daniel Patrick Moynihan
United States Courthouse
Courtroom 15C
500 Pearl Street
New York, New York 10007

Re: Eastern Profit Corp. Ltd. v. Strategic Vision US, LLC, 18-cv-2185 (LJL)

Dear Judge Liman:

On behalf of our client, Strategic Vision, US, LLC, we write to request a telephone conference to make the Court aware of New York Governor Cuomo's Executive Order 205 and its likely effect on the jury trial recently set for Monday, November 2, 2020. *See* Dkt. 287.

Under the terms of the Governor's EO-205, anyone who spends more than an insubstantial period in a state appearing on New York's quarantine list must self-isolate within designated quarters for fourteen days upon entry into New York.¹ Currently, Missouri, Virginia, and Delaware are on that list. *Id.* All of these states will remain on New York's list unless and until they achieve a 7-day moving average Covid-19 testing positivity rate of under 10%.

The undersigned lives and works in Kansas City, which is in Missouri. The rest of the team on this case are Missourians. French Wallop, the principal and primary witness for Strategic Vision, lives and works in Virginia. Counsel for Eastern Profit lives in Delaware.

Regardless of whether and when any state eventually moves off the list, arrangements must be made very quickly for suitable accommodations, meal delivery, and various other technical and personal necessities attendant to a lengthy period of strict self-isolation just before a jury trial.² Further, assuming that it is possible to find arrangements for this length of time, circumstances beyond our control may impact the trial date. Even a brief deviation from the strict self-isolation regimen during the 14-day period, either for purposes of our own health or that of our families back home, will preclude our appearance in public in the State of New York under EO-205. That would include entry to the courthouse. At least for Strategic Vision and its

¹ See <https://coronavirus.health.ny.gov/covid-19-travel-advisory>.

² It is not clear whether Eastern will be impacted to the same extent as Strategic, as its witnesses live in New York, and its Delaware counsel may be able to take up nearby residence in Pennsylvania or New Jersey, which are not on the list. Eastern does not join this request.



counsel, it is now clear that EO-205 imposes a severe and unexpected personal and financial burden immediately before the jury trial, which is the first trial setting in this 2018 case.

The Court should understand that both parties' trial teams are working diligently on drafts of the pretrial order, exhibits, and instructions. Exchanges of exhibits, witness lists, deposition designations, and draft orders were made starting on September 18, and counsel have been in near-constant communication on these items, procedural and substantive instructions, and issues about which items are appropriate for jury trial. (They have also conferred regarding the quarantine issue.) The parties' full focus and attention is on trial preparation, and the Court will have a complete pretrial order with all attachments on October 5, 2020.

However, only 13 days after submitting the pretrial order, it seems likely that Strategic's sole owner and main witness, French Wallop, and Strategic's Missouri trial team will need to move to New York and go into strict self-isolation. The date of no return will soon be upon us, and the search for quarters, access to food, and medical monitoring equipment that complies with EO-205 is already interfering with trial preparation. In short, Strategic Vision believes that these circumstances would seem to make this case a poor candidate for one of this district's first Phase III civil jury trials.

At the same time, Strategic Vision sees no reason to abandon the parties' and Court's focus on pretrial deadlines and the summary judgment motions, which are now well underway and will be timely completed. It seems likely that within a few months, most states—perhaps including Missouri and Virginia—will be removed from New York's quarantine list and the case can be tried in circumstances approaching normalcy. At any rate, whatever the answer to this problem, Strategic Vision believes the Court should be made aware of how EO-205 affects the parties and that it would be of benefit to hold the conference the parties previously requested.

Respectfully submitted,



Edward D. Greim
Counsel for Defendant/Counterclaimant Strategic
Vision US, LLC

cc: Counsel of record via ECF